

+ **TREBILCOCK & ROVIRA, LLC**
Metro Office Park, BDG 11, Suite 105^a, Guaynabo, Puerto Rico 00968
Tel. 787-399-1969 · tt@trebilcockllc.com

August 3, 2020

BY EMAIL AND
CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Evelyn Rivera-Ocasio, Esq.
Assistant General Counsel
Caribbean Environmental Protection Division
U.S. Environmental Protection Agency, Region 2
City View Plaza II, Suite 7000
48 Rd. 165, km. 1.2
Guaynabo, Puerto Rico 00968-8069
Rivera-ocasio.evelyn@epa.gov

Re: Administrative Compliance Order CWA-02-2020-3106
Palmas de Cerro Gordo Development Pump Station
Proposed Preventive Maintenance Plan (“PMP”)

Dear sister counsel Rivera-Ocasio:

As unilaterally required by the Environmental Protection Agency (“EPA”) under the referenced Administrative Compliance Order (“the Order”), Estancias de Cerro Mar, Inc. (“Estancias”) hereby respectfully submits its proposed preventive maintenance plan (“PMP”) related to the Palmas de Cerro Gordo Development Pump Station (the “Pump Facility”) in order to: (a) prevent sanitary sewer overflows (“SSO”) from occurring at the Pump Facility, and (b) continue to ensure that the Pump Facility is not the direct cause of any SSO’s occurring at the wastewater sewer collection systems owned and improperly operated/maintained by the Puerto Rico Aqueduct and Sewer Authority (“PRASA”) for the Villa Alegria and Palmas de Cerro Gordo residential developments that discharge into the Pump Facility. See, Attachment 1.

Estancias submits the PMP on behalf of itself, and as the agent for and on behalf of PRASA, the latter which is the lawful owner of the Pump Facility and which has rejected assuming title to the Pump Facility during two (2) decades of bad faith dealings. Further, Estancias submits the PMP in its endless efforts to act in good faith and as a good corporate citizen in the face of continued acts of inequity and acts that are arbitrary, capricious and contrary to laws applicable to PRASA and the EPA. Estancias does not make any admission of fact or law, or evidence of same, or of any violation of any

Evelyn Rivera Ocasio, Esq.

August 3, 2020

Page 2 of 2

permit, law or regulation, and does not submit to the jurisdiction of the EPA. The fact is that Estancias has remained in compliance with the CWA.

Estancias has received EPA's determination dated July 31, 2020, whereby EPA reiterated its position that it would not amend the Order to include PRASA nor dismiss any of the original Respondents. Once again, EPA engages in its overzealous attempt to wrongfully accuse irrelevant parties without a scintilla of evidence and violate their constitutional rights, while at the same disregarding the obvious fact that PRASA is an indispensable party. It is clear as a matter of fact and law, that PRASA owns and operates the sewer collection systems related to the Villa Alegria and Palmas de Cerro Gordo developments. Estancias will not assume any obligations regarding the operation or maintenance of the sewer collection systems owned and operated by PRASA.

EPA fails again to substantiate and correct its findings of fact and conclusions of law, which are based on mere speculation and aim to protect PRASA. Estancias will continue its good faith compliance with the Order and will continue to reject EPA's notion that the Respondents are the responsible parties, and that PRASA is not the sole responsible party. EPA should not interpret Estancias past historical good faith in this matter as an admission to liability, but rather as an act of a responsible corporate citizen which has fallen a victim to an abusive system that grants undue deference to PRASA because of its status as a Commonwealth entity.

Based on the foregoing, Estancias hereby requests that EPA acknowledge Estancias' timely and full compliance with the relevant Ordered Provision, as thereafter amended by the parties.

Cordially,

/s/Thomas Trebilcock Horan

c: Mr. Héctor Ortiz (EPA)
Mr. Angel Meléndez (DNER)
Mr. Hector Rivera
Edwin R. Cruz, Esq. (Pietrantonio Méndez & Álvarez)

ATTACHMENT 1

EPA ADMINISTRATIVE COMPLIANCE ORDER NO. CWA-02-2020-3106 PROPOSED PREVENTIVE MAINTENANCE PLAN

Estancias hereby respectfully proposes to implement, or cause its authorized representatives, contractors and consultants to implement, the following measures as necessary with respect to the findings alleged by the Environmental Protection Agency (“EPA”) in its Administrative Compliance Order No. CWA-02-2020-3106 (“the Order”), so as to comply with the relevant Ordered Provisions.

	Task	Description	Time Period	Comments
1	Inspection	Inspection to ensure that all the equipment and appurtenances are properly operated and maintained to ensure compliance with the Order. <ul style="list-style-type: none">• Pumps• Sump• Chambers and bar screens• Valves• Chains• Emergency Generator• Luminaries• Hoses and diesel tank dike for emergency generator• Drainage for check valve• Electrical panel amperage• Level floats	Weekly	Estancias & Contractor Clean4All Environmental Cleaning Services or other. Hector Rivera from Estancias and/or several employees from Clean4All as needed.
2	Maintenance	Pumps will be checked for debris and/or any obstructions. Clean up and repairs will be done as needed.	Monthly	Estancias & Contractor Clean4All Environmental Cleaning Services or other. Hector Rivera from Estancias and/or several employees from Clean4All as needed.
		Sump manhole – open and clean to remove any debris.	Weekly	Estancias & Contractor Clean4All Environmental Cleaning Services or other Hector Rivera from Estancias and/or several employees from Clean4All as needed.
		Sump is emptied and cleaned.	Every six months	Estancias & Contractor Clean4All Environmental Cleaning Services or other as needed.

				Hector Rivera from Estancias and/or several employees from Clean4All as needed.
		Chamber and bar screens are cleaned to remove any debris.	Monthly	Estancias & Contractor Clean4All Environmental Cleaning Services or other. Hector Rivera from Estancias and/or several employees from Clean4All as needed.
		Discharge pipe – painting to avoid corrosion. Repairs performed as needed.	Every six months	Estancias & Contractor Clean4All Environmental Cleaning Services or other. Hector Rivera from Estancias and/or several employees from Clean4All as needed.
		Exhaust fan – is started for voltage and amperage testing. Repairs will be done as needed.	Weekly	Estancias & Contractor Clean4All Environmental Cleaning Services or other. Hector Rivera from Estancias and/or several employees from Clean4All as needed.
		Transformers are checked for voltage and amperage testing. Repairs will be done as needed.	Monthly	Estancias & Contractor Clean4All Environmental Cleaning Services or other. Hector Rivera from Estancias and/or several employees from Clean4All as needed.
		Emergency generator is checked to verify that it is starting and performing the weekly preventive startup.	Weekly	Estancias & Contractor Clean4All Environmental Cleaning Services or other. Hector Rivera from Estancias and/or several employees from Clean4All as needed.

		Drainage valve for diesel dike – is checked and any debris is removed.	Weekly	Estancias & Contractor Clean4All Environmental Cleaning Services or other. Hector Rivera from Estancias and/or several employees from Clean4All as needed.
		Shaft for entrance valves – is checked and properly greased.	Weekly	Estancias & Contractor Clean4All Environmental Cleaning Services or other. Hector Rivera from Estancias and/or several employees from Clean4All as needed.
		Valve box – is checked and any debris is removed.	Weekly	Estancias & Contractor Clean4All Environmental Cleaning Services or other. Hector Rivera from Estancias and/or several employees from Clean4All as needed.
		Exterior lighting - is checked for replacement of light bulbs.	Weekly	Estancias & Contractor Clean4All Environmental Cleaning Services or other. Hector Rivera from Estancias and/or several employees from Clean4All as needed.
		Fire extinguisher – is checked for condition and replaced as needed.	Weekly	Estancias & Contractor Clean4All Environmental Cleaning Services or other. Hector Rivera from Estancias and/or several employees from Clean4All as needed.
		Safety signage – checked and replaced as needed.	Weekly	Estancias & Contractor Clean4All Environmental Cleaning Services or other.

				Hector Rivera from Estancias and/or several employees from Clean4All as needed.
		Painting of structures – redone and maintained as needed.	Every six months.	Hector Rivera from Estancias and/or a contractor.
		Housekeeping – general cleanup (eg., sweeping and collection of leaves and debris) at the pump station facilities and immediate area for housekeeping.	Weekly	Estancias & Contractor Clean4All Environmental Cleaning Services or other. Hector Rivera from Estancias and/or several employees from Clean4All as needed.

Reservation of Rights. If Estancias is unable to comply with the deadlines established in this Plan due to reasons beyond its reasonable control, said time-period shall be automatically extended by the same number of days of said delay. Estancias shall also be able to extend said time-period for good cause. Estancias will notify EPA in writing of said automatic extensions as soon as practicable.

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Respectfully submitted in Dorado, Puerto Rico on this 3 day of August, 2020.

/s/Hector Luis Rivera Montesino
Hector L. Rivera-Montesino
Estancias de Cerro Mar, Inc.